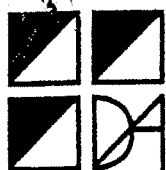
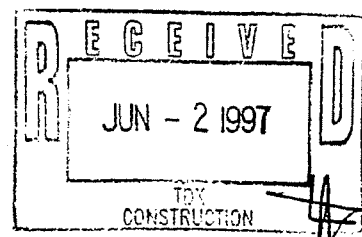


EXHIBIT “D”



DORMITORY AUTHORITY OF THE STATE OF NEW YORK
161 Delaware Avenue, Delmar, New York 12054-1398
(518) 475-3000
Fax: (518) 475-3040



May 29, 1997

Mr. Logan Hurst, Treasurer
TDX Construction Corporation
121 West 27th Street
New York, NY 10001

Dear Mr. Hurst

Enclosed is one executed copy of the following Agreement:

Institution:	BARUCH COLLEGE
Facility:	Site "B"
Agreement:	\$5,932,250.00
Agreement No:	6500 1802 5156
Explanation:	Construction Manager Services Construction Phase

Sincerely,

Brian Dollard
Contracts and Cost Control Unit

Enclosures

cc: L. Gartner, CUNY
N. D'Ambrosio, DASNY
NYCO File
File

Thomas J. Murphy, Chairman
John L. Buono, Executive Director

New York Office
One Penn Plaza, 52nd Floor
New York, New York 10119-0098
(212) 273-5000 Fax: (212) 273-5121

Buffalo Office
539 Franklin Street
Buffalo, New York 14202-1109
(716) 884-9780 Fax: (716) 884-9787

04.24.97

CONSTRUCTION PHASE

**BARUCH COLLEGE
Site "B"
DA#6500 1802 5156**

AGREEMENT

An Agreement is hereby made by and between the DORMITORY AUTHORITY - State of New York, having its principal office and place of business as 161 Delaware Avenue, Delmar, New York 12054-1398, hereinafter referred to as the OWNER, and TDX CONSTRUCTION CORPORATION, whose office is located at 121 West 27th Street, New York, New York 10001, hereinafter referred to as the CONSTRUCTION MANAGER; and

WHEREAS, the OWNER intends to construct a new Administrative and Academic building at Baruch College - Site "B", hereinafter referred to as the Project; and

WHEREAS, the CONSTRUCTION MANAGER has provided Design Consulting Services during the Design Phase of the Project; and

WHEREAS, the OWNER now desires the CONSTRUCTION MANAGER to provide Construction Management Services for the Construction Phase of the Project, including the administration of the General Conditions Work;

NOW, THEREFORE, the OWNER and the CONSTRUCTION MANAGER hereby mutually covenant and agree as follows:

ARTICLE I: SCOPE OF SERVICES

The CONSTRUCTION MANAGER's Services shall include, but not be limited to, all Articles of this Agreement and all Services enumerated in Appendix "A", entitled **SCOPE OF SERVICES**, (hereinafter the Work), which is attached to and made a part hereof.

ARTICLE II: ADDITIONAL SERVICES

The OWNER reserves the right to direct the CONSTRUCTION MANAGER to provide Additional Services and the CONSTRUCTION MANAGER shall provide said Additional Services when so directed.

ARTICLE III: EXTRA WORK

If the CONSTRUCTION MANAGER believes that any work it has been directed to perform is beyond the scope of this Agreement and constitutes Extra Work, it shall promptly so notify the OWNER in writing. The OWNER shall determine whether or not the work is in fact beyond the scope of this Agreement and is Extra Work. If the OWNER determines that the work is Extra Work, this Agreement shall be modified to equitably reflect the cost of said Extra Work.

ARTICLE IV: CONSULTANTS

The OWNER may retain a Consultant or Consultants to furnish Services throughout the term of this Agreement, and the CONSTRUCTION MANAGER shall cooperate with said Consultant or Consultants.

ARTICLE V: PROVISION FOR PAYMENT

- A. Construction Phase - Including Supervision and Administration of General Conditions Work

For satisfactory performance of all Construction Phase Services pursuant to Appendix "A", the OWNER shall pay, and the CONSTRUCTION MANAGER agrees to accept as full compensation, the following:

1. Actual Direct Salary of all employees of the CONSTRUCTION MANAGER, other than Principals, assigned to the Project. Actual Direct Salary, as used herein, shall not include allowances for insurances, payroll taxes, or other benefits listed in item A.2., Fringe Benefits.

Employees shall be paid their regular rate of pay while on vacation, holiday, and sick leave only in proportion to the period of time in which they are working on the Project. The CONSTRUCTION MANAGER's leave payment policy is subject to pre-approval by the OWNER. Pay rates for employees and their appropriate titles are listed in Appendix "B", entitled SCHEDULE OF APPROVED PERSONNEL CLASSIFICATIONS AND MAXIMUM DIRECT SALARY RATES, which is attached to and made a part hereof.

Certified payroll records for all employees for which reimbursement is sought under Article V.A. shall be supplied to the OWNER upon request and made available to the OWNER for inspection or audit at the OWNER's option at any time during the life of this Agreement and for a period of six (6) years after final payment.

Reimbursement to the CONSTRUCTION MANAGER for Actual Direct Salary costs for Construction Phase Services shall Not Exceed Three Million, Six Hundred Twenty-nine Thousand, Seven Hundred Sixty and 00/100 Dollars (\$3,629,760.00).

2. Fringe Benefits are the actual cost to the CONSTRUCTION MANAGER of Fringe Benefits applicable to Actual Direct Salary costs pursuant to Article V.A.1. above. Allowable Fringe Benefit items as provided for herein shall be limited to the following specific items:

- a. F.I.C.A.;
- b. Federal Unemployment Insurance;
- c. State Unemployment Insurance;
- d. NYS Workers Compensation;
- e. Life Insurance;
- f. Accidental Death and Dismemberment;
- g. NYS Disability Insurance;
- h. Group Hospitalization;
- i. Pension Plan; and
- j. Group Travel Accident Insurance.

Reimbursement to the CONSTRUCTION MANAGER of Fringe Benefit costs for Construction Phase Services shall be paid at actual cost of the approved Fringe Benefits per title and shall Not Exceed Seven Hundred Ninety-seven Thousand, Four Hundred Ninety and 00/100 Dollars (\$797,490.00).

Total Actual Direct Salaries and Fringe Benefits \$4,427,250 NTE

If the CONSTRUCTION MANAGER at any time estimates that the total of Actual Direct Salary and Fringe Benefit costs may exceed the above total, it shall promptly notify the OWNER in writing giving full explanation for such increase. If the OWNER agrees that said increase is necessary and justified, this Agreement shall be amended to reflect the increased amount. No liability shall accrue to the OWNER until such time as written approval and authorization for said increase has been given by the OWNER to the CONSTRUCTION MANAGER.

3. Consultant's Costs, if required, shall be approved by the OWNER. Monthly bills for said Consultant's Costs shall be submitted to the OWNER together with sufficient supporting documentation in form and content satisfactory to the OWNER. The CONSTRUCTION MANAGER shall not be reimbursed any markup on Consultant's Costs.

4. Fixed Fee will be paid in the amount of One Million, Five Hundred Five Thousand and 00/100 Dollars (\$1,505,000.00) which includes all home office overhead, Principal and/or Executive level involvement, and profit. The Fixed Fee shall be adjusted at the time additional personnel are assigned.

The Fixed Fee of \$1,505,000.00 pursuant to Article V.A.4. shall be reimbursed in 45 equal monthly payments of \$32,700 and one final payment of \$33,500. Reimbursement of this portion of the Fixed Fee shall commence with the CONSTRUCTION MANAGER's monthly requisition for the prime Construction Phase currently scheduled for February 1, 1997.

Payment for Early or Extended Completion Time. If all the work is completed prior to the planned Completion Date of June 30, 2000, as provided for in Article XIV, the balance of the Fixed Fee shall be paid with the final payment.

If, through no fault of the CONSTRUCTION MANAGER, the work is not completed by the planned Completion Date of June 30, 2000, as provided for in Article XIV, then the OWNER shall continue to reimburse the CONSTRUCTION MANAGER for Approved Actual Direct Salary and Fringe Benefit costs pursuant to Article V.A.1. and 2.

If, through no fault of the CONSTRUCTION MANAGER the work is not completed by December 31, 2000, the monthly Fixed Fee shall become re-negotiable between the OWNER and the CONSTRUCTION MANAGER.

5. The MAXIMUM AMOUNT PAYABLE to the CONSTRUCTION MANAGER for all Services required pursuant to this Construction Phase shall be the sum of paragraphs 1., 2., 3., and 4. of Article V.A. and shall Not Exceed Five Million, Nine Hundred Thirty-two Thousand, Two Hundred Fifty and 00/100 Dollars (\$5,932,250.00).

The MAXIMUM AMOUNT PAYABLE is summarized in Appendix "C", entitled SUMMARY OF PAYMENTS, which is attached to and made a part hereof.

Payments for Services shall be made monthly as approved by the OWNER. Payments shall be requisitioned on the OWNER's form, PERSONAL SERVICES AGREEMENT REQUISITION, with accompanying backup. Only said form shall be used for reimbursement of Services.

ARTICLE VI: FINAL PAYMENT AND RELEASE

Upon satisfactory completion by the CONSTRUCTION MANAGER and acceptance by the OWNER of all Services required pursuant to this Agreement, or all Services performed prior to the termination of said Agreement if so terminated, final payment shall be made to the CONSTRUCTION MANAGER.

Acceptance by the CONSTRUCTION MANAGER of final payment hereunder shall operate as, and shall be, a release to the OWNER from all claims and liability to the CONSTRUCTION MANAGER and its successors, legal representatives, and assigns for anything done or furnished under or arising out of the provisions of this Agreement. No payment, final or otherwise, shall release the CONSTRUCTION MANAGER from any obligations under this Agreement.

ARTICLE VII: OWNER'S PROCEDURE

The CONSTRUCTION MANAGER agrees to comply with all procedural requirements of the OWNER as they apply to reports or other aspects of the Project. In addition, during the Construction Phase of this Agreement, the CONSTRUCTION MANAGER shall comply with all procedural requirements of the Client. Client is herein defined as the entity for whom the OWNER is performing services, including subsidiaries, agents, related corporations, or fiduciaries.

ARTICLE VIII: INSURANCE PROVIDED BY CONSTRUCTION MANAGER

A. CONSTRUCTION MANAGER shall procure and shall maintain all the insurance required under this Article until Final Acceptance of all the Work. The CONSTRUCTION MANAGER shall not commence work under this Agreement until the CONSTRUCTION MANAGER has obtained and required each of its Contractors or Subcontractors to obtain all of the insurance required under this Article.

The CONSTRUCTION MANAGER and each of its Contractors and Subcontractors of every tier shall provide insurance as follows:

1. Workers' Compensation and Employers Liability Insurance
 - a. Statutory Workers' Compensation (including occupational disease)
 - b. Employers Liability (with a minimum limit of \$100,000)
New York Statutory Endorsement
2. New York State Disability Benefit Insurance
3. Commercial General Liability (CGL) with a combined single limit for Bodily Injury, Personal Injury and Property Damage of at least \$5,000,000 per occurrence and aggregate. The limit may be provided through a combination of primary and umbrella/excess liability policies. Coverage shall provide and encompass at least the following:
 - a. Excavation, Collapse and Underground Hazards (X, C and U), where applicable;
 - b. Independent Contractors;
 - c. Blanket Written Contractual Liability covering all Indemnity Agreements, including all indemnity obligations contained in the Agreement;
 - d. Products Liability and Completed Operations;
 - e. CGL coverage written on an occurrence form;
 - f. Endorsement naming the Dormitory Authority - State of New York, City University of New York and City University of New York Construction Fund as Additional Insureds
 - g. Policy or policies must be endorsed to be primary as respects the coverage afforded the Additional Insureds and such policy shall be primary to any other insurance maintained by the OWNER. Any other insurance maintained by the Owner shall be excess of and shall not contribute with the CONSTRUCTION MANAGER'S, its Contractor's or Subcontractor's insurance, regardless of the "other insurance" clause contained in the OWNER'S own policy of insurance.
4. Commercial Automobile Liability and Property Damage Insurance covering all owned, leased, hired and non-owned vehicles used in connection with the Work with a combined single limit for Bodily Injury and Property Damage of at least \$1,000,000 per occurrence. The limit may be provided through a combination of primary and umbrella/excess liability policies.

5. Umbrella and/or Excess Liability policies used to comply with CGL, Automobile Liability and Employers Liability limits shown above may be warranted to be in excess of limits provided by primary CGL, Automobile Liability and Employer's Liability, but not excess to other insurance maintained by the OWNER.

B. Two (2) Certificates of Insurance, indicating the Project, must be submitted and approved by the OWNER prior to the commencement of work. Certificates shall provide thirty (30) days written notice prior to the cancellation, non-renewal, or material modification of any policy. Upon request, the CONSTRUCTION MANAGER shall furnish the OWNER with certified copies of each policy.

Certificates are to be forwarded to:

Contracts and Cost Control Unit
Dormitory Authority--State of New York
161 Delaware Avenue
Delmar, NY 12054

Sample forms of the Certificate(s) Insurance are attached. Certificate(s) of Insurance, when submitted to the OWNER, constitutes a warranty by the CONSTRUCTION MANAGER that the insurance coverage described is in effect for the policy term shown.

Should the CONSTRUCTION MANAGER engage a Contractor or Consultant, the same conditions as are applicable to the CONSTRUCTION MANAGER under these insurance requirements shall apply to each Contractor or Consultant of every tier. Proof thereof shall be supplied to the Dormitory Authority's Risk Management Unit.

C. All insurance required to be procured and maintained must be procured from insurance companies licensed to do business in the State of New York and rated at least B+ by A.M. Best and Company, or meet such other requirements as are acceptable to the OWNER.

D. Should the CONSTRUCTION MANAGER fail to provide or maintain any insurance required by this contract, the OWNER may, after providing written notice to the CONSTRUCTION MANAGER, purchase insurance complying with the requirements of this Article and charge back such purchase to the CONSTRUCTION MANAGER.

E. At any time that the coverage provisions and limits on the policies required herein do not meet the provisions and limits set forth above, the CONSTRUCTION MANAGER shall immediately cease work on the Project. The CONSTRUCTION MANAGER shall not resume work on the Project until authorized to do so by the OWNER. Any delay or time lost as a result of the CONSTRUCTION MANAGER not having insurance required by this Article shall not give rise to a delay claim or any other claim against the OWNER or the Client.

F. Notwithstanding any other provision in this Article, the OWNER may require the CONSTRUCTION MANAGER to provide, at the expense of the OWNER, any other form or limit of insurance necessary to secure the interests of the OWNER.

G. The CONSTRUCTION MANAGER shall secure, pay for, and maintain Property Insurance necessary for protection against the loss of owned, borrowed or rented capital equipment and tools, including any tools owned by employees, and any tools or equipment, staging towers, and forms owned, borrowed or rented by the CONSTRUCTION MANAGER. The requirement to secure and maintain such insurance is solely for the benefit of the CONSTRUCTION MANAGER. Failure of the CONSTRUCTION MANAGER to secure such insurance or to maintain adequate levels of coverage shall not render the Additional Insureds or their

agents and employees responsible for any losses; and the Additional Insureds, their agents and employees shall have no such Liability.

H. Neither the procurement nor the maintenance of any type of insurance by the OWNER, the Subcontractor(s) of the CONSTRUCTION MANAGER or the CONSTRUCTION MANAGER shall in any way be construed or deemed to limit, discharge, waive or release the CONSTRUCTION MANAGER from any of the obligations or risks accepted by the CONSTRUCTION MANAGER or to be a limitation on the nature or extent of said obligations and risks.

I. The Agreement may, at the sole option of the OWNER, be declared void and of no effect if the CONSTRUCTION MANAGER fails to comply with the provisions of this Article.

J. The CONSTRUCTION MANAGER and its Contractors shall not violate, or permit to be violated, any term or condition of their insurance policies, and shall at all times satisfy the safety requirements of the OWNER and of the insurance companies issuing such policies.

ARTICLE IX: INSURANCE PROVIDED BY THE OWNER

A. Builders Risk except as otherwise specified herein, at all times during the period of construction and until physical completion and acceptance, the Owner shall procure and maintain, at the cost and expense of the OWNER, "All Risk" Builder's Risk Insurance. The OWNER, CONSTRUCTION MANAGER, the CONSTRUCTION MANAGER's Contractor and Subcontractors will be Named Insureds with waiver of subrogation against any such Insureds. There is a deductible provision for all losses in the amount of five thousand dollars (\$5,000). Losses, incurred by the CONSTRUCTION MANAGER, up to and including the amount of the deductible provision, shall be borne by the CONSTRUCTION MANAGER. Reimbursement for loss, if any, is to be made payable to the OWNER on behalf of and for the Named Insureds as their interests may appear. The OWNER shall, at the OWNER'S sole discretion, have power to adjust and to settle with the insurer any loss or claim under said insurance.

B. Coverage shall include sub-limits for property in transit and for property in storage on and off the job site. Specific higher limits for transit/storage are available as circumstances may require upon request by any Named Insured to the OWNER'S Risk Management Unit.

ARTICLE X: INSURANCE PROVIDED BY PRIME CONTRACTORS

The OWNER shall include in the contracts between the OWNER and each of the separate Prime Contractors the following requirements:

1. The CONSTRUCTION MANAGER be specifically named as an indemnity in the Indemnification and Hold Harmless furnished by each of the Prime Contractors to the OWNER; and
2. That the CONSTRUCTION MANAGER be specifically included as an Additional Insured in all liability insurances furnished by each of the Prime Contractors to the OWNER.
3. Insurance provided by the Prime Contractors is required to be endorsed as primary with respect to the coverage afforded to the additional insureds.
4. It shall be the responsibility of the CONSTRUCTION MANAGER to obtain a copy of each Prime Contractors Certificate of Insurance, in order to ensure that the CONSTRUCTION MANAGER is included as an additional insured thereunder.

ARTICLE XI: PROTECTION OF RIGHTS, PERSONS, AND PROPERTY

A. Accident Prevention

The CONSTRUCTION MANAGER shall, at all times, take every precaution against injuries to persons or damage to property and for the safety of persons engaged in the performance of its Work on the Job Site. The CONSTRUCTION MANAGER shall establish and maintain, at all times, safety procedures in connection with its Work as required by the current New York Labor Law and regulations of the Occupational Safety and Health Act (OSHA).

B. Protection of Work and Property

1. The CONSTRUCTION MANAGER shall use its best efforts to see that its Contractor and subcontractor shall, at all times, guard the OWNER'S property from injury or loss in connection with its work, the Prime Contractor's Construction Work and adjacent property.

2. The CONSTRUCTION MANAGER shall use its best efforts to see that its Contractor shall be responsible for protecting the materials stored by its Contractor both on and off site. The CONSTRUCTION MANAGER shall report any loss, theft, burglary, vandalism, or damage of materials or installed work to the OWNER by telephone and "FAX" as soon as it is discovered. If vandalism, theft, or burglary are suspected as the cause of the loss, the CONSTRUCTION MANAGER shall notify site security personnel and the municipal police. The CONSTRUCTION MANAGER shall also ensure the protection of the place of the loss until released from protection by the OWNER or the OWNER's Representative. The CONSTRUCTION MANAGER shall ensure that no potential evidence relating to the loss is removed from the place of the loss. Failure of the CONSTRUCTION MANAGER to comply with all of the above shall result in the CONSTRUCTION MANAGER bearing full financial responsibility for any losses.

C. Risks Assumed by the CONSTRUCTION MANAGER

1. The CONSTRUCTION MANAGER solely assumes the following distinct and several risks whether said risks arise from acts or omissions, whether supervisory or otherwise, including unforeseen obstacles and difficulties which may be encountered in the prosecution of its Work, and whether said risks involve any legal duty, primary or otherwise, imposed upon the OWNER or the Client excepting only risks which arise from faulty designs as shown by the plans and specifications or from affirmative acts of the OWNER, the Client, or the OWNER's members, officers, employees, or representatives, (hereinafter Protected Persons), committed with intent to cause the loss, damage, or injuries hereinafter set forth:

- a. the risk of loss or damage to its Work or to any plant, equipment, tools, materials, or property furnished, used, installed, or received by the Protected Persons. The CONSTRUCTION MANAGER shall bear said risk of loss or damage until its Work is completed or until completion or removal of said plant, equipment, tools, materials or property from the site and the vicinity thereof, whichever event occurs last, and in the event of said loss or damage, the CONSTRUCTION MANAGER shall timely repair, replace or make good any said loss or damage after notification to the OWNER's representative and Risk Management Unit, and;
- b. The risk of claims, just or unjust, by third persons against the Protected Persons on account of wrongful death, bodily injuries, and property damage, arising or alleged to arise out of, or as a result of, or in connection with the performance by the CONSTRUCTION MANAGER of its Work. The CONSTRUCTION MANAGER shall bear the risk for all deaths, injuries, damages, or losses sustained or alleged to have been sustained prior to the Final Acceptance of its Work, or resulting from the

CONSTRUCTION MANAGER's negligence or alleged negligence which is discovered, appears, or is manifested after acceptance by the OWNER, and;

- c. the CONSTRUCTION MANAGER assumes entire responsibility and liability for any and all damage or injury of any kind or nature whatsoever, including death resulting therefrom, to all persons, whether employees of the CONSTRUCTION MANAGER or otherwise, and to all property, caused by, resulting from, arising out of, or occurring in connection with the negligent or alleged negligent execution of its Work. The CONSTRUCTION MANAGER shall assume the defense and pay on behalf of the Protected Persons, any and all loss, expense, damage, or injury that the Protected Persons, may sustain as the result of any claim. The CONSTRUCTION MANAGER agrees to assume, and pay on behalf of the Protected Persons, the defense of any action at law or equity which may be brought against the Protected Persons. The assumption of defense and liability by the CONSTRUCTION MANAGER includes, but is not limited to: the amount of any legal fees associated with defending, all costs of investigation, expert evaluation, and any other costs including any judgment or interest or penalty that may be entered against the Protected Persons, in any said action.
2. The CONSTRUCTION MANAGER's obligations under this Article shall not be deemed waived, limited, or discharged by the enumeration of procurement of any insurance for liability for damages.
3. Neither Final Acceptance of the Work nor making any payment shall release the CONSTRUCTION MANAGER from the CONSTRUCTION MANAGER's obligations under this Article. The enumeration elsewhere in the Agreement of particular risks assumed by the CONSTRUCTION MANAGER or of particular claims for which the CONSTRUCTION MANAGER is responsible shall not be deemed to limit the effect of the provisions of this Article or to imply that the CONSTRUCTION MANAGER assumes, or is responsible for, only risks or claims of the type enumerated; and neither the enumeration in this Article nor the enumeration elsewhere in the Agreement of particular risks assumed by the CONSTRUCTION MANAGER of particular claims for which the CONSTRUCTION MANAGER is responsible shall be deemed to limit the risks which the CONSTRUCTION MANAGER would assume or the claims for which the CONSTRUCTION MANAGER would be responsible in the absence of said enumerations.

D. Protection of Lives and Health

1. The CONSTRUCTION MANAGER shall make daily observations of the safety practices of all Prime Contractors and their Subcontractors work activities on the job site and check their compliance with municipal, state and federal safety requirements. If a safety violation is found, the CONSTRUCTION MANAGER shall give the Prime Contractor or Subcontractor immediate written notice of the deficiency, and require correction of the safety violation before work continues. If the Prime Contractor or Subcontractor does not correct the deficiency within three (3) hours of notice from the CONSTRUCTION MANAGER, the CONSTRUCTION MANAGER may require the Prime Contractor or Subcontractor to leave the job site or may authorize a separate Contractor to erect or provide the required safety structures, equipment, or procedures. All costs related to using a separate Prime Contractor to provide safety structures, equipment, or procedures shall be paid by the Contractor or Subcontractor that failed to comply in a timely manner to the CONSTRUCTION MANAGER's notice.

The CONSTRUCTION MANAGER shall conduct weekly safety meetings with the Prime Contractor and Subcontractor to review compliance with the safety precautions and programs required by their respective contracts.

The CONSTRUCTION MANAGER shall provide a copy of all notices under this section to the OWNER's Risk Management Unit.

Any slow down or delay in work caused by actions under this section shall not be a valid basis for a delay or loss of income claim by the CONSTRUCTION MANAGER.

2. The CONSTRUCTION MANAGER shall make its best effort to see that the Prime Contractors and Subcontractors on the project shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work, arising out of and in the course of employment of Construction Work under the Prime Contract, and shall immediately notify the OWNER in writing of any injury which results in hospitalization or death. The CONSTRUCTION MANAGER shall require the Prime Contractor and Subcontractors to provide to the OWNER a copy of Form C-2, Employers Report of Injury/Illness within twenty-four (24) hours of any job related injury on the OWNER's job site. Further, a copy of the OSHA Log of Injury and Illness shall also be provided to the OWNER for any reporting period in which a job related injury or illness is recorded. The CONSTRUCTION MANAGER shall also provide a list of witnesses to the OWNER. The list shall at least include the full name, home address, occupation, and telephone number of each person who saw or has knowledge of the incident which caused the injury or illness.

3. The OWNER or OWNER's Representatives may inspect the job site at any time without notice to the CONSTRUCTION MANAGER. If the OWNER finds that the CONSTRUCTION MANAGER is not complying with sections A. through D., the OWNER may send written notice to the CONSTRUCTION MANAGER to correct any deficiency. If upon re-inspection, the OWNER finds the deficiencies have not been corrected, the OWNER may let a separate contract to correct any deficiencies and charge back the cost of the separate Contract to the CONSTRUCTION MANAGER at a premium rate. The CONSTRUCTION MANAGER cannot pass these additional charges onto the OWNER. No action taken under this section shall be deemed as a basis for any delay claim or any other claim against the OWNER by the CONSTRUCTION MANAGER.

4. The CONSTRUCTION MANAGER shall preserve and safeguard the scene of any job site accident involving a ladder, scaffold, mobile machinery, equipment, safety railing, or uncovered floor opening, or any other accident where the injured person required emergency medical treatment. The CONSTRUCTION MANAGER shall "tape off" the area, and not allow any material object or property to be altered, changed, moved, or removed from the accident site. In addition to "taping off" the accident site, the CONSTRUCTION MANAGER shall telephone and "FAX" the OWNER's Project Manager and Risk Management Unit immediately, and post a person at the accident site to protect it. Safeguarding and protecting the accident site shall only be abandoned by the CONSTRUCTION MANAGER upon release by the OWNER or the OWNER's Representative. Failure of the CONSTRUCTION MANAGER to comply with the provisions of this paragraph shall be deemed a breach of this Agreement.

5. The CONSTRUCTION MANAGER shall prepare and deliver to the OWNER a site specific job safety and security program. Special emphasis must be given to access to emergency medical treatment, first aid, evacuation, and basic safety training including orientation of each worker on the specific inherent safety risks of the job site and specific training required by OSHA. The security element of the plan shall include special consideration for protection if the project is in a high crime area.

ARTICLE XII: HOLD HARMLESS

In addition to any risks specifically assumed by the CONSTRUCTION MANAGER under Article XI, the CONSTRUCTION MANAGER hereby agrees to indemnify and hold harmless the OWNER, the Client, the OWNER's members, officers, employees, or representatives, against all claims arising out of the negligent acts, alleged negligent acts, or failure to act, by the CONSTRUCTION MANAGER, and shall pay any judgment or expense, including interest, imposed against any of them for personal injury, wrongful death or property

damage, and to defend and pay the costs and expenses thereof, any action, proceeding or lawsuit brought against the parties indemnified and held harmless herein.

Upon the conclusion of any such action, proceeding or lawsuit, should a final binding determination of responsibility be made which allocates responsibility to the OWNER, the Client, or the OWNER's members, officers, employees, or representatives, the OWNER agrees that the obligation to indemnify and hold harmless shall not be applicable to the portion of any money judgment for which the OWNER is responsible, and the OWNER agrees to pay the CONSTRUCTION MANAGER the percentage of defense costs which the CONSTRUCTION MANAGER incurred based upon an apportionment of the OWNER's allocated responsibility.

ARTICLE XIII: OWNER'S RIGHT TO AUDIT AND INSPECT RECORDS

The CONSTRUCTION MANAGER shall maintain, and shall keep for a period of six (6) years after the date of final payment, all records and other data relating to the Project, including records of its Subcontractors and suppliers. The OWNER or the OWNER's Representative shall have the right to inspect and audit all records and other data of the CONSTRUCTION MANAGER, its Subcontractors, and material suppliers relating to the Project.

ARTICLE XIV: APPENDIX "D" ADDITIONAL ITEMS

Attached to and made a part hereof is Appendix "D", entitled ADDITIONAL ITEMS.

ARTICLE XV: ASSIGNMENT

The Construction Manager shall not assign the Agreement in whole or in part without prior written consent of the OWNER.

ARTICLE XVI: TIME OF COMPLETION

The planned Completion Date for the Construction Phase shall be June 30, 2000, however, this Agreement shall survive and remain in full force and effect until the Work of this Agreement is completed.

IN WITNESS WHEREOF, the OWNER and CONSTRUCTION MANAGER have executed this Agreement as of this 12th day of MAY 1997.

TDX CONSTRUCTION CORPORATION

By [Signature]
Title President

DORMITORY AUTHORITY

By [Signature]
Title Deputy Executive Director, Construction

LPJ

ACKNOWLEDGEMENT OF OFFICER OF OWNER EXECUTING CONTRACT

STATE OF NEW YORK)
COUNTY OF ALBANY) ss:

On this 21st day of July in the year 1997, before me personally came SAM R. DAVIDSON, who being by me known and duly sworn, did depose and say that he resides 35 Kennedy Drive, Colonie, New York 12205; that he is the Deputy Executive Director, of the Dormitory Authority, the corporation described in and which executed the above instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.

PEARL ELLEN ROCK
Notary Public, State of New York
No. 01RO502780
Qualified in Albany County
Commission Expires Jan. 18, 1999

Pearl Ellen Rock
Notary Public

ACKNOWLEDGEMENT, IF A CORPORATION

STATE OF NY)
COUNTY OF NY) ss:

On this 12th day of May in the year 1997, before me personally came Logan L. Hurst, to me known, who, being by me duly sworn, did depose and say that he resides at Greene, NY; that he is the Treasurer of LLX Construction Corp the corporation described in and which executed the above instrument; and that he signed his name thereto by order of the Board of Directors of said corporation.

KATHERINE ROBINSON
Notary Public State of New York
No. 01RO504581
Qualified in Queens County
Commission Expires June 28, 1999

Katherine Robinson
Notary Public

ACKNOWLEDGEMENT, IF A PARTNERSHIP

STATE OF _____)
COUNTY OF _____) ss:

On this ____ day of _____ in the year 19__, before me personally came _____, known to me to be a member of the firm _____, described in and who executed the foregoing instrument, and he duly acknowledged to me that he executed the same for and in behalf of said firm for the uses and purpose mentioned therein.

Notary Public

ACKNOWLEDGEMENT, IF AN INDIVIDUAL

STATE OF _____)
COUNTY OF _____) ss:

On this ____ day of _____ in the year 19__, before me personally came _____, known to me to be the person described in and who executed the foregoing instrument and he duly acknowledged that he executed the same.

Notary Public

**CERTIFICATION OF NON-SEGREGATED FACILITIES;
NON-DISCRIMINATION IN EMPLOYMENT IN NORTHERN IRELAND
COMPLIANCE WITH FEDERAL EQUAL EMPLOYMENT OPPORTUNITY ACT;
COMMITMENT TO NEW YORK STATE BUSINESS ENTERPRISE;
AND NON-COLLUSIVE BIDDING REQUIREMENT**

1. The CONSTRUCTION MANAGER certifies that the CONSTRUCTION MANAGER or its Subconsultant does not, nor shall not, maintain or provide for the employees of such CONSTRUCTION MANAGER or Subconsultant any segregated facilities at any establishments, of such CONSTRUCTION MANAGER or Subconsultant, and that the CONSTRUCTION MANAGER or Subconsultant shall not permit any employees, of such CONSTRUCTION MANAGER or Subconsultant, to perform services at any location, under the control of such CONSTRUCTION MANAGER or Subconsultant, where segregated facilities are maintained. The CONSTRUCTION MANAGER or Subconsultant agrees that a breach of this certification is a violation of the equal opportunity clauses of the Agreement. The CONSTRUCTION MANAGER or Subconsultant further agrees that, except in any instance in which the CONSTRUCTION MANAGER or Subconsultant has obtained identical certifications from proposed Subconsultants for specific time periods, such Consultants or Subconsultant shall obtain identical certifications from proposed Subconsultants prior to the award of subcontracts exceeding Ten Thousand Dollars (\$10,000.00); that such CONSTRUCTION MANAGER or Subconsultant shall retain such certifications in the files of such CONSTRUCTION MANAGER or Subconsultant.

2. The CONSTRUCTION MANAGER or Subconsultant further stipulates that it, and any individual or legal entity in which the CONSTRUCTION MANAGER or Subconsultant holds a ten percent (10%) or greater ownership interest and any such entity that holds such an interest in the CONSTRUCTION MANAGER or the Subconsultant, either:

- (i) has no business operations in Northern Ireland; or
- (ii) shall take all lawful steps in good faith to conduct any business operations it has or in which it has such an interest in Northern Ireland in accordance with the MacBride Fair Employment Principles as set forth in Chapter 807 of the Laws of 1992 and shall permit any independent monitoring of its compliance with said Principles.

3. The CONSTRUCTION MANAGER attests to its compliance with the Federal Equal Employment Opportunity Act of 1972 (P.L. 92-261), as amended.

4. It is the policy of New York State to maximize opportunities for the participation of New York State business enterprises, including minority and women-owned business enterprises as bidders, subcontractors, and suppliers on its procurement contracts. Information on the availability of New York State subcontractors and suppliers, including the Directory of Certified Minority and Women-Owned Business Enterprises, is available from the New York State Department of Economic Development.

5. The Omnibus Procurement Act of 1992 (as amended) requires that by signing this bid/proposal, the CONSTRUCTION MANAGER certifies that whenever the total bid amount is greater than \$1 million:

The CONSTRUCTION MANAGER has made reasonable efforts to encourage the participation of New York State Business Enterprises as suppliers and subcontractors on this project, and has retained the documentation of these efforts to be provided upon request to the Owner.

The CONSTRUCTION MANAGER agrees to make reasonable efforts to provide notification to New York State residents of employment opportunities on this project through listing any such positions with the Job Service Division of the New York State Department of Labor, or providing such notification in such manner as is consistent with existing collective bargaining contracts or agreements. The CONSTRUCTION MANAGER agrees to document these efforts and to provide said documentation to the Owner upon request.

On contracts of One Million Dollars or more, the CONSTRUCTION MANAGER acknowledges notice of the requirement to cooperate with New York State in efforts to obtain offset credits from foreign countries as a condition of contract award.

6. In accordance with Section 139-d of the State Finance Law, if this contract was awarded based upon the submission of bids, the CONSTRUCTION MANAGER warrants, under penalty of perjury, that its bid was arrived at independently and without collusion aimed at restricting competition. The CONSTRUCTION MANAGER further warrants that, at the time the CONSTRUCTION MANAGER submitted its bid, an authorized and responsible person executed and delivered to the Owner a non-collusive bidding certification on the CONSTRUCTION MANAGER behalf.

NOTE: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001

LOREN L. HURST, TREAS.
(Name and Title of Certifier-Please Type)

[Signature]
(Signature)

5/12/97
(Date)

Form **W-9**

(Rev. January 1993)

Department of the Treasury
Internal Revenue Service**Request for Taxpayer
Identification Number and Certification**Give this form to
the requester. Do
NOT send to IRS

Type or Print Please	Name (If joint names, list first and circle the name of the person or entity whose number you enter in Part I below. See instructions on page 2 if you name has changed.) TDX Construction Corporation	List account number(s) here (optional)
	Business name (Sole proprietors see instructions on page 2.) (If you are exempt from backup withholding, complete this form and enter "EXEMPT" in Part II below.)	
	Address (number and street) 121 West 27th Street	
	City, state, and Zip code New York, New York 10001	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. For

individuals, this is your social security number (SSN). For sole proprietors, see the instructions on page 2. For other entities, it is your employer identification number (EIN). If you do not have a number, see How To Obtain a TIN below.

Note: If the account is in more than one name, see the chart on page 2 for guidelines on whose number to enter.

1330392514

Social security number

Part II

Requester's name and address (optional)

Certification - Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me), and
- I am not subject to backup withholding because (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding.

Certification instructions.—You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because of underreporting interest or dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, the acquisition or abandonment of secured property, contributions to an individual retirement arrangement (IRA), and generally payments other than interest and dividends, you are not required to sign the Certification, but you must provide your correct TIN. (Also see Signing the Certification on page 2.)

Sign**Here**

Signature

Section references are to the Internal Revenue Code

Purpose of Form.—A person who is required to file an information return with the IRS must obtain your current TIN to report income paid to you, real estate transactions, mortgage interest you paid, the acquisition or abandonment of secured property, or contributions you made to an IRA. Use Form W-9 to furnish your correct TIN to the requester (the person asking you to furnish your TIN) and, when applicable, (1) to certify that the TIN you are furnishing is correct (or that you are waiting for a number to be issued), (2) to certify that you are not subject to backup withholding, and (3) to claim exemption from backup withholding if you are an exempt payee. Furnishing your correct TIN and making the appropriate certifications will prevent certain payments from being subject to backup withholding.

Note: If a requester gives you a form other than a W-9 to request your TIN, you must use the requester's form.

How to Obtain a TIN.—If you do not have a TIN, apply for one immediately. To apply, get Form SS-5, Application for Social Security Card (for individuals), from your local office of the Social Security Administration, or Form SS-4, Application for Employer Identification Number (for businesses and all other entities), from your local IRS office.

To complete Form W-9 if you do not have a TIN, write "Applied for" in the space for the TIN in Part I, sign and date the form, and give it to the requester. Generally, you will then have

60 days to obtain a TIN and furnish it to the requester. If the requester does not receive your TIN within 60 days, backup withholding, if applicable, will begin and continue until you furnish your TIN to the requester. For reportable interest or dividend payments, the payer must exercise one of the following options concerning backup withholding during this 60-day period. Under option (1), a payer must backup withhold on any withdrawals you make from your account after 7 business days after the requester receives this form back from you. Under option (2), the payer must backup withhold on any reportable interest or dividend payments made to your account, regardless of whether you make any withdrawals. The backup withholding under option (2) must begin no later than 7 business days after the requester receives this form back. Under option (2), the payer is required to refund the amounts withheld if your certified TIN is received within the 60-day period and you were not subject to backup withholding during that period.

Note: Writing "Applied for" on the form means that you have already applied for a TIN OR that you intend to apply for one in the near future.

As soon as you receive your TIN, complete another Form W-9, include your TIN, sign and date the form, and give it to the requester.

What is Backup Withholding?—Persons making certain payments to you after 1982 are required to withhold and pay to the IRS 31% of such payments under certain conditions. This is called "backup withholding". Payments that could be subject to backup withholding include interest,

dividends, broker and barter exchange transactions, rents, royalties, nonemployee compensation, and certain payments from fishing boat operators, but do not include real estate transactions.

If you give the requester your correct TIN, make the appropriate certifications, and report all your taxable interest and dividends on your tax return, your payments will not be subject to backup withholding. Payments you receive will be subject to backup withholding if:

- You do not furnish your TIN to the requester, or
- The IRS notifies the requester that you furnished an incorrect TIN, or
- You are notified by the IRS that you are subject to backup withholding because you failed to report all your interest and dividends on your tax return (for reportable interest and dividends only), or
- You do not certify to the requester that you are not subject to backup withholding under 3 above (for reportable interest and dividend accounts opened after 1983 only), or
- You do not certify your TIN. This applies only to reportable interest, dividend, broker, or barter exchange accounts opened after 1983, or broker accounts considered inactive in 1983.

Except as explained in 5 above, other reportable payments are subject to backup withholding only if 1 or 2 above applies. Certain payees and payments are exempt from backup withholding and information reporting. See **Payees and Payments Exempt From**

Payees and Payments Under Specific Instructions. Below, if you are an exempt payee. **Payees and Payments Exempt From Backup Withholding.**—The following is a list of payees exempt from backup withholding and for which no information reporting is required. For interest and dividends, all listed payees are exempt except item (9). For broker transactions, payees listed in (1) through (13) and a person registered under the Investment Advisers Act of 1940 who regularly acts as a broker are exempt. Payments subject to reporting under sections 6041 and 6041A are generally exempt from backup withholding only if made to payees described in items (1) through (7), except a corporation that provides medical and health care services or bills and collects payments for such services is not exempt from backup withholding or information reporting. Only payees described in items (2) through (6) are exempt from backup withholding for barter exchange transactions, patronage dividends, and payments by certain fishing boat operators.

(1) A corporation. (2) An organization exempt from tax under section 501(a), or an IRA, or a custodial account under section 403(b)(7). (3) The United States or any of its agencies or instrumentalities. (4) A state, the District of Columbia, a possession of the United States, or any of their political subdivisions, agencies, or instrumentalities. (5) A foreign government or any of its political subdivisions, agencies, or instrumentalities. (6) An international organization or any of its agencies or instrumentalities. (7) A foreign central bank of issue. (8) A dealer in securities or commodities required to register in the United States or a possession of the United States. (9) A futures commission merchant registered with the Commodity Futures Trading Commission. (10) A real estate investment trust. (11) An entity registered at all times during the tax year under the Investment Company Act of 1940. (12) A common trust fund operated by a bank under section 584(a). (13) A financial institution. (14) A middleman known in the investment community as a nominee or listed in the most recent publication of the American Society of Corporate Secretaries, Inc., Nominee List. (15) A trust exempt from tax under section 664 or described in section 4947.

Payments of dividends and patronage dividends generally not subject to backup withholding include the following:

- Payments to nonresidential aliens subject to withholding under section 1441
- Payments to partnerships not engaged in a trade or business in the United States and that have at least one nonresidential partner.
- Payments of patronage dividends not paid in money.

- Payments made by certain foreign organizations.

- Payments of interest generally not subject to backup withholding include the following:
- Payments of interest on obligations issued by individuals

Note: You may be subject to backup withholding if this interest is \$600 or more and is paid in the course of the payer's trade or business and you have not provided your correct TIN to the payer.

- Payments of tax-exempt interest (including exempt-interest dividends under section 852)
- Payments described in section 6049(b)(5) to nonresident aliens.
- Payments on tax-free covenant bonds under section 1451.
- Payments made by certain foreign organizations.
- Mortgage interest paid by you.

reporting are also not subject to backup withholding. For details, see sections 6041, 6041A(a), 6042, 6044, 6045, 6049, 6050A, and 6050N, and their regulations.

Penalties

Failure to Furnish TIN.—If you fail to furnish your correct TIN to a requester, you are subject to a penalty of \$50 for each such failure unless your failure is due to reasonable cause and not to willful neglect.

Civil Penalty for False Information With Respect to Withholding.—If you make a false statement with no reasonable basis that results in no backup withholding, you are subject to a \$500 penalty.

Criminal Penalty for Falsifying Information.—Willfully falsifying certifications or affirmations may subject you to criminal penalties including fines and/or imprisonment.

Misuse of TINs.—If the requester discloses or uses TINs in violation of Federal law, the requester may be subject to civil and criminal penalties.

Specific Instructions

Name.—If you are an individual, you must generally provide the name shown on your social security card. However, if you have changed your last name, for instance, due to marriage, without informing the Social Security Administration of the name change, please enter your first name, the last name shown on your social security card, and your new last name.

If you are a sole proprietor, you must furnish your individual name and either your SSN or EIN. You may also enter your business name or "doing business as" name on the business name line. Enter your name(s) as shown on your social security card and/or as it was used to apply for your EIN on Form SS-4.

Signing the Certification.

1. **Interest, Dividend, Broker, and Barter Exchange Accounts Opened Before 1984 and Broker Accounts Considered Active During 1983.** You are required to furnish your correct TIN, but you are not required to sign the certification.

2. **Interest, Dividend, Broker, and Barter Exchange Accounts Opened After 1983 and Broker Accounts Considered Inactive During 1983.** You must sign the certification or backup withholding will apply. If you are subject to backup withholding and you are merely providing your correct TIN to the requester, you must cross out item 2 in the certification before signing the form.

3. **Real Estate Transactions.** You must sign the certification. You may cross out item 2 of the certification.

4. **Other Payments.** You are required to furnish your correct TIN, but you are not required to sign the certification unless you have been notified of an incorrect TIN. Other payments include payments made in the course of the requester's trade or business for rents, royalties, goods (other than bills for merchandise), medical and health care services, payments to a nonemployee for services (including attorney and accounting fees), and payments to certain fishing boat crew members.

5. **Mortgage Interest Paid by You, Acquisition or Abandonment of Secured Property, or IRA Contributions.** You are required to furnish your correct TIN, but you are not required to sign the certification.

6. **Exempt Payees and Payments.** If you are exempt from backup withholding, you should complete this form to avoid possible erroneous

Part I, write "EXEMPT" in the block in Part II, and sign and date the form. If you are a nonresident alien or foreign entity not subject to backup withholding, give requester a completed Form W-8, Certificate of Foreign Status.

7. **TIN "Applied for."** Follow the instructions under How to Obtain a TIN, on page 1, and sign and date this form.

Signature.—For a joint account, only the person whose TIN is shown in Part I should sign.

Privacy Act Notice.—Section 6109 requires you to furnish your correct TIN to persons who must file information returns with the IRS to report interest, dividends, and certain other income paid to you, mortgage interest you paid, the acquisition or abandonment of secured property, or contributions you made to an IRA. The IRS uses the numbers for identification purposes and to help verify the accuracy of your tax return. You must provide your TIN whether or not you are required to file a tax return. Payers must generally withhold 31% of taxable interest, dividend, and certain other payments to a payee who does not furnish a TIN to a payer. Certain penalties may also apply.

What Name and Number to Give

the Requester	
For this type of account:	Give name and SSN of:
1. Individual	The individual
2. Two or more individuals (joint account)	The actual owner of the account or, if combined funds, the first individual on the account
3. Custodian account of a minor (Uniform Gift to Minors Act)	The minor ²
4. a. The usual revocable savings trust (grantor is also trustee)	The grantor-trustee ¹
b. So-called trust account that is not a legal or valid trust under state law.	The actual owner ¹
5. Sole proprietorship	The owner ³
For this type of account:	Give name and EIN of:
6. Sole proprietorship	The owner ³
7. A valid trust, estate, or pension trust.	Legal entity ⁴
8. Corporate	The corporation
9. Association, club, religious, charitable, educational, or other tax-exempt organization	The organization
10. Partnership	The partnership
11. A broker or registered nominee	The broker or nominee
12. Account with the Department of Agriculture in the name of a public entity (such as a state or local government, school district or prison) that receives agricultural program payments	The public entity

¹ List first and circle the name of the person whose number you furnish

² Circle the minor's name and furnish the minor's SSN.

³ Show your individual name. You may also enter your business name. You may use your SSN or EIN.

⁴ List first and circle the name of the legal trust, estate, or pension trust. (Do not furnish the TIN of the personal

representative or trustee unless the legal entity itself is not designated in the account title).

Note: If no name is circled when there is more than one name, the number will be considered to

APPENDIX "A"

SCOPE OF SERVICES

CONSTRUCTION PHASE

The CONSTRUCTION MANAGER shall perform the following services in relation to:

1. General Administration

- a. Serve as the OWNER's chief representative in the field and maintain liaison amongst the OWNER, the Architect, and all Prime Contractors.
- b. Establish an organization to effect a positive means by which the Project will be controlled, coordinated, and expedited. On-site staffing shall be agreed upon by the OWNER and CONSTRUCTION MANAGER and in accordance with Appendix "B", which is annexed hereto and made a part hereof.
- c. Develop a project "Procedures Manual" within the scope of the Construction Contracts. After review with the OWNER, implement said manual and enforce the procedures.
- d. Receive, investigate, and reply to all Prime Contractors' correspondence pertaining to the Construction Work. Take appropriate action as required.
- e. Prepare, develop, maintain, and safeguard all inclusive on-site record keeping systems that meet with the OWNER's approval.
- f. Coordinate with the appropriate parties the delivery and installation of OWNER purchased furnishings and equipment.
- g. Supply the OWNER and the OWNER's Representative (if requested) with a copy of all correspondence, reports, comments, transmittals, requests, and other information relating to the Construction Contracts.

2. Meetings

- a. Conduct all job progress meetings and job coordination meetings as required.
- b. Record, transcribe, and issue, within four (4) working days of the date of any job meeting, minutes of said meeting.
- c. Attend and record miscellaneous meetings with the OWNER, Architect, or Prime Contractors.

3. Shop Drawings and Samples

- a. Review all shop drawings for coordination of field conditions among the Prime Contractors, Subcontractors, trades, etc., prior to submittal to the Architect for his review and approval. Return shop drawings, as necessary, for corrections.
- b. Receive all samples and forward to Architect for approval.

4. **Testing/Inspection**

Coordinate and monitor all testing and inspection programs. Issue reports that include date, persons present, results, and test/inspection criteria or standards.

5. **Quality Control**

- a. Assure all required clarifications and revisions to Contract Documents are issued to the appropriate Prime Contractor as directed by the OWNER and/or Architect.
- b. Inspect all work daily for quality and conformance to the Contract Documents. Advise Prime Contractor(s) of necessary corrective work. Inspect materials and equipment prior to installation for conformance to the specifications.
- c. Prepare periodic "Exception Reports" as required by the Construction Work of the Prime Contractors. Distribute to the appropriate Contractor(s) for necessary corrective work. Maintain a log of the noted exception, date issued, and date corrected. Maintain a photographic record where life safety issues/systems are involved.
- d. Inspect the Project jointly with the OWNER and Architect prior to the time the OWNER is to use, occupy, or operate any part or all of the Project, and prepare a list of observed variances and deficiencies in the Construction Work. Distribute the list to the appropriate Prime Contractor(s) for necessary corrective work.
- e. Prepare jointly with Architect a "Final Punch List" for each Construction Contract. Distribute to the appropriate Prime Contractor(s) for necessary corrective action.
- f. At the time of substantial completion, prepare a list of any remaining items of work to be completed or corrected. Distribute to the appropriate Prime Contractor(s) for necessary work. Establish a value for each item of work remaining to be completed or corrected.
- g. Make final inspection of the Project with OWNER/Architect/ Engineer, using Contract Documents as a base to determine if the Contract requirements have been fulfilled. List any variances between Construction Contract requirements and Construction Work installed. Coordinate items which may appear on independent final lists prepared by the OWNER/Architect/ Engineer. Distribute to the appropriate Prime Contractor(s) for necessary corrective action.
- h. Follow up on all notices of corrective work to Prime Contractor(s) to assure satisfactory and timely completion of the Construction Work.

6. **Affirmative Action Program**

Assist in the implementation of the OWNER's Affirmative Action Program with regard to Equal Opportunities and Minority Business Enterprise participation.

7. **Progressing the Work**

- a. Expedite and coordinate the work of all Prime Contractors.
- b. Expedite and coordinate the progress of Architects and other Consultants.
- c. Determine the cause of and responsibility for any delays. Recommend appropriate remedial action.

- d. Be cognizant of potential delays and direct the Prime Contractor(s) to take the necessary measures to eliminate circumstances which may lead to a delay.

8. Payments to Prime Contractors

- a. Progress Payments:
 - 1) Review and recommend for the OWNER's approval, the Prime Contractor's detailed payment breakdown.
 - 2) Review each Prime Contractor's monthly invoices and recommend payment, no payment, or partial payment.
- b. Final Payment:
 - 1) Establish that all close-out procedures have been complied with.
 - 2) Make recommendations on final payment.

9. Change in the Work

- a. Implement and enforce the OWNER's procedure for the processing of Change Orders.
- b. Consult with the Architect concerning proposed design changes and obtain the OWNER's approval for same. The Architect will be responsible to design approved changes.
- c. Make recommendations to the OWNER for such changes in the Construction Work as the CONSTRUCTION MANAGER may consider necessary or desirable.
- d. Perform economic evaluation of all changes in the Construction Work and evaluate the effect on other work. Investigate alternatives, coordinate with the Architect, and make recommendations to the OWNER.
- e. Evaluate requests for extensions of time and make recommendations.
- f. Maintain daily cost accounting records with respect to work performed on a time and materials basis.

10. Claims

Analyze and evaluate all claims for Construction Contract time extension or cost adjustment. Make recommendations to the OWNER for resolution, approval, or disapproval.

11. Reports

Prepare and issue the following:

- a. daily reports in form acceptable to the OWNER;
- b. bi-weekly progress reports;
- c. all reports required by Federal authorities;
- d. Affirmative Action and EEO reports;

- e. periodic reports on compliance with Historic Preservation requirements, if any;
- f. for any job related injury prepare/obtain same day photographs, C-2 Form (employers first report of injury), OSHA Log of Illness and Injury, the CONSTRUCTION MANAGER's daily log, and any other incident/accident reports, and immediately forward to the OWNER's Risk Management Unit;
- g. for any job related property damage prepare/obtain same day photographs, the CONSTRUCTION MANAGER's daily log, and any other incident/accident reports, and immediately forward to the OWNER's Risk Management Unit;
- h. other reports which are from time to time required by the OWNER.

12. Close Out

- a. Establish that the following has been received from the Prime Contractor(s) and forwarded expeditiously to the appropriate party:

- 1) all necessary guarantees;
- 2) as-built drawings
- 3) operating and maintenance manuals;
- 4) certificates of compliance, etc.;
- 5) all turnover items required by Construction Contract; and
- 6) other items required by the Construction Contract.

Maintain a log of receipts and turnovers, and transmittals.

- b. Establish and document that all operating instructions have been given to the OWNER's personnel consistent with Construction Contract requirements. Perform all necessary coordination.

13. Scheduling

The CONSTRUCTION MANAGER shall provide Construction Phase Scheduling Services in accordance with the following requirements:

- a. Precedence Diagram for Construction

- 1) Review the Construction Contract drawings and specifications, and prepare listings of the various items of work by trade responsibility for each phase of the Project. Determine approximate quantities and/or units available. Evaluate the overall Project to determine one or more possible approaches in construction.

- 2) Develop a precedence diagram based on the OWNER approved scheduling approach describing activities, as opposed to events, showing the interrelations of the activities described above. Included shall be activities for submission and approval of major shop drawings and delivery of major materials and equipment.

- 3) A copy of the precedence diagram with milestones shall be inserted into the Contract Documents prior to bidding.

- b. Review and Preparation of Schedule

- 1) Initial Conferences

a) Conduct conferences with Prime Contractors and the OWNER's Representatives during the mobilization stage to determine sequential relationships and interdependence for each activity of the Project. Additional information to be developed in order to establish a practical work schedule includes:

- (1) an analysis of the various essential components, activities, and events required for a completed Project;
- (2) activities of the Architect and OWNER that affect the work progress such as approvals of shop drawings;
- (3) activities shall not be limited to actual construction operations but shall include preparation and submission of shop drawings and samples, procurement of materials and equipment, testing, and Architect and OWNER activities that may affect work progress; and
- (4) such other information as may be required to prepare a complete plan and work schedule under the proposed scheduling method.

2) Sixty Day Schedule

- a) Using the above information and data acquired from the Prime Contractor, develop preliminary network schedule for the Project including activities for deliveries and submittals. This network shall show in detail the Project schedule for the first sixty (60) calendar days.
- b) This coordinated schedule shall be furnished no later than fifteen days after the award of the contracts.
Upon the OWNER's approval, it shall be used to monitor progress until the Total Project Schedule is developed.

3) Total Project Schedule for Construction Completion

- a) Prepare for submittal and approval the updated schedule for the Project based on the Construction Contractor's, Architect's, and OWNER's schedule information provided. The durations and manpower information will be analyzed and reviewed with the Prime Contractors, if necessary, in order to develop a complete network. The network presentation shall include a time scale using the manpower information to realistically schedule activities having float.
- b) If, during the preparation of the Total Project Schedule network, the computer analysis discloses a completion date not within the Contract time limits, the Prime Contractors will be instructed by the CONSTRUCTION MANAGER to effect such revisions that will result in a schedule that meets the OWNER's requirements. When the network satisfies the Construction Contract conditions, it is to be submitted as the Prime Contractor's Construction Schedule.
- c) The Total Project Schedule for all work shall be submitted to the OWNER and copies sent to the Prime Contractors within sixty (60) days after award of Construction Contracts.